

## **New Wastewater Service Area Maps: How Will They Affect Your Property?**

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On January 17, 2012, a new law (P.L. 2011, c. 203) (the "Law") took effect modifying the State Wastewater Management Planning Process. The goal of the Law is to provide greater predictability to property owners, investors, and developers while protecting the State's significant environmental resources from the impacts of further development. Although the Law did not change the substance of the existing Department of Environmental Protection ("DEP") rules, it required County Wastewater Management Planning Agencies ("WMP Agencies") to submit, at a minimum, the portion of their updated County-wide Wastewater Management Plans ("WMP") dealing with the delineation of the updated "Future Wastewater Service Area" boundaries to the DEP by July 15, 2012.

Access to sanitary sewer service is critical for economic growth and development. WMPs determine where new sanitary sewer lines can be built in the county. A property must be included within the sewer service area ("SSA") in the WMP in order for development on the property to be served by sewers. Those properties outside the SSA can only be served by septic systems. A property's location outside the SSA will significantly limit the amount of development that can occur on the property.

The Law makes it much easier for counties to have their SSAs approved by DEP. WMP Agencies are now allowed to bifurcate the submittal of their WMPs. Only the portion of the WMP designating the SSA was due by the July 15 deadline. The entire WMP was not required to be submitted at that time. DEP must complete its review of the submission for compliance with regulatory criteria within 180 days of the date the application was deemed complete. DEP must then provide a 30-day public comment period on the application. If substantial new questions are raised concerning a proposed plan amendment the DEP may (1) extend the public comment period for not more than 30 additional days, (2) request additional information from the applicant within 30 days after conclusion of the public comment period, or (3) return the application for further amendments which will then be reviewed by DEP again. On or before the 65th day after conclusion of the public comment period, or upon receipt of additional information, DEP is required to take action on the SSA by approving it as proposed, approving it with modifications, or disapproving it.

Sixteen of the twenty-one counties in the State met the deadline for submitting SSA Maps or full WMPs to the DEP. Substantial portions of Union, Bergen, Hudson, and Passaic Counties were in compliance prior to the passage of the Law. Only Warren County did not submit an SSA map. However, all of the individual municipalities within Warren County have complied by submitting individual SSA maps. Having received the SSA maps by the deadline, DEP intends to act on the SSA maps by the end of the year.

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During DEP's review, it is crucial that property owners determine whether their property is located inside or outside of a proposed SSA based upon the county-drafted maps. DEP is only posting the maps on its website when it starts the public comment period. The following DEP website is where the notices of the public comment periods on a county's proposed SSA and the proposed map are published: <http://www.nj.gov/dep/wqmp/wmpnotices.html>. Most counties have posted the proposed SSA maps on their websites, so the same information may be accessed from the county's website. Property owners should also know that the maps posted by DEP may include DEP revisions to the original maps the counties submitted. Notice of any DEP revisions will be included in the notice of hearing.

If your property is outside of the proposed SSA, you may request a change to the draft map by submitting written comments to DEP and the relevant county during the public comment period and/or by testifying at the scheduled public hearing. It is crucial that property owners request changes *before* the maps have been officially adopted by DEP. Changes following adoption are likely to be difficult and time consuming to obtain.

A public hearing to discuss the proposed changes in SSA designation for Morris County has been scheduled for Monday, August 13, 2012 in the Morris County Library Public Meeting Room, 30 East Hanover Avenue, Whippany, NJ 07981 from 5:30pm to 8:00pm or close of testimony, whichever comes first. Gloucester County's public hearing on its proposed amendment will be held on Wednesday, September 12, 2012 at the Gloucester County Office of Government Services auditorium located at 1200 North Delsea Drive in Clayton, NJ from 6:00pm to 8:00pm or close of testimony. Comments need to be submitted by August 28th for Morris County and by September 27th for Gloucester County. The public comment period for Ocean, Camden, and Somerset Counties has ended. Property owners should continue to check the above DEP website regularly to identify the public comment period, including the date of the public hearing, for their counties.

If you have questions about SSA maps, or if you would like assistance requesting changes, please contact [William F. Harrison, Esq.](#) in the [Commercial Real Estate, Redevelopment and Environmental Law Practice Group](#).

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